

## **Minutes of the Maine Real Estate Commission**

APRIL 21, 2005

### **MEMBERS PRESENT**

Earl Black  
David Kitchen  
Sharon Millett  
Jeffrey Mitchell  
Winfred Stevens

### **STAFF PRESENT**

Carol Leighton, Director  
Karen L. Bivins, Deputy Director  
Judy Brown, Examiner  
Robert Perkins, A.A.G.  
Susan Greenlaw, Secretary

### **MEMBERS ABSENT**

**Location:** Central Conference Room      **Start:** 9:00 a.m.      **Adjourn:** 4:35 p.m.

### **Minutes – March 24, 2005**

A motion was made by Earl Black and seconded by Winfred Stevens to approve the minutes of the March 24, 2005 meeting as written. Unanimous.

### **Agenda Modifications**

A motion was made by Jeffrey Mitchell and seconded by Earl Black to add the following to the agenda. Unanimous.

Commission Decisions and Orders

Director v. Amy J. Halsey

Director v. Jeffrey C. Irving

Proposed Consent Agreements

#2005-048

Proposed Dismissals

#2003-019

### **Commission Decisions and Orders**

A motion was made by Jeffrey Mitchell and seconded by Earl Black to accept the Decision in the matter of Director v. Amy J. Halsey. Unanimous.

A motion was made by Jeffrey Mitchell and seconded by Earl Black to accept the Decision in the matter of Director v. Jeffrey C. Irving. Black, Kitchen, Mitchell, and Stevens voted in the affirmative; none opposed; Millett abstained. Motion carried.

### **Consent Agreements**

A motion was made by Jeffrey Mitchell and seconded by Winfred Stevens to accept the proposed Consent Agreements in case numbers 2004-067, 2005-034, 2005-035, 2005-044, 2005-048. Unanimous.

### **Dismissed Complaints**

A motion was made by Winfred Stevens and seconded by Jeffrey Mitchell to accept the proposed Dismissals in case numbers 2003-019 and 2003-106. Black recused and left the room; Kitchen, Millett, Mitchell, and Stevens voted in the affirmative; none opposed. Motion carried.

A motion was made by Winfred Stevens and seconded by David Kitchen to accept the proposed Dismissal in case number 2003-117. Unanimous.

A motion was made by Earl Black and seconded by Jeffrey Mitchell to accept the proposed Dismissal in case number 2003-100. Millett recused and left the room; Black, Kitchen, Mitchell, and Stevens voted in the affirmative; none opposed. Motion carried.

### **Commission Hearing**

The Chair opened the hearing in the matter of Director v. David A. Ireland. The Director was present and represented by Assistant Attorney General Robert Perkins. Mr. Ireland was present and not represented by an attorney. Assistant Attorney General Judith Peters attended as Commission counsel. Public deliberations were conducted at the close of the hearing. Winfred Stevens recused from participation and left the meeting.

A motion was made by David Kitchen and seconded by Earl Black to find Ireland in violation of 32 MRSA §13178 and §13067(1)(F) and Chapter 320 Section 3(E) of the Maine Real Estate Commission Rules. Unanimous.

A motion was made by David Kitchen and second by Jeffrey Mitchell to find Ireland in violation of 32 MRSA §13178 and §13067(1)(F) and Chapter 320 Section 3(B) of the Maine Real Estate Commission Rules. Unanimous.

A motion was made by David Kitchen and seconded by Jeffrey Mitchell to find Ireland in violation of 32 MRSA §13067(1)(F) and Chapter 320 Section 3(C) of the Maine Real Estate Commission Rules. Unanimous.

A motion was made by Jeffrey Mitchell and seconded by Earl Black to find no violation of 32 MRSA §13067(1)(H). Black, Kitchen, and Mitchell voted in the affirmative; Millett opposed. Motion carried.

A motion was made by David Kitchen and seconded by Jeffrey Mitchell to find Ireland in violation of 32 MRSA §13067(1)(G). Unanimous.

A motion was made by David Kitchen and seconded by Jeffrey Mitchell to find Ireland in violation of 32 MRSA §13067(1)(F) and Chapter 320 Section 2(A) of the Maine Real Estate Commission Rules. Unanimous.

A motion was made by David Kitchen and seconded by Jeffrey Mitchell to find Ireland in violation of 32 MRSA §13067(1)(L). Unanimous.

A motion was made by David Kitchen and seconded by Jeffrey Mitchell to find Ireland in violation of 32 MRSA §13275(1) and §13067(1)(F) and Chapter 330 Section 7 of the Maine Real Estate Commission Rules. Unanimous.

A motion was made by David Kitchen and seconded by Jeffrey Mitchell to find Ireland in violation of 32 MRSA §13067(1)(H). Unanimous.

A motion was made by David Kitchen and seconded by Jeffrey Mitchell to find Ireland in violation of 32 MRSA §13067(1)(A). Unanimous.

A motion was made by David Kitchen and seconded by Jeffrey Mitchell to order Ireland to pay a fine of \$5000 within 30 days; order Ireland to provide to the Commission within 60 days a complete audit report prepared by a certified public accountant of the agency's trust account for the time period from March 28, 2000 through March 28, 2005; order the suspension of Ireland's license for a period of 90 days beginning 30 days after he receives the written Decision and Order in this matter; order that Ireland may not hold a designated broker license for a period of 4 years beginning with the reinstatement of his broker license after the suspension period detailed above and that he may not so reapply for a designated broker license unless he has met all the requirements for that license, including successful completion of the course "The Role of the Designated Broker". Unanimous.

### **Correspondence**

Memorandum – Elaine Richer re: Open Book Exams: A motion was made by Earl Black and seconded by Jeffrey Mitchell to allow open book exams as long as the application for approval includes notification that exams will be open book. Unanimous.

Continuing Education Course Approval Denial – Appeal Martha Webb, BCW Group: A motion was made by Earl Black and seconded by Jeffrey Mitchell to uphold the denial. Unanimous.

### **Director's Report**

Legislative Update - L.D. 1525; 1484; and 601 – Discussion: Director Leighton updated the Commission on the status of each of these proposals.

L.D. 1525: Should this proposal pass, extensive rule making is expected. A motion was made by Earl Black and seconded by Jeffrey Mitchell to recommend an effective date of 6/30/06. Unanimous.

L.D. 1484: Minimum standards section – Commission has previously agreed on this concept. Oklahoma legislation was provided. Carol is testifying neither for nor against but will provide information on each section. Commission members agreed that consumers must be fully aware of services to be received as proposed in L. D. 1484 the “minimum services” – may have impact of limiting consumers’ choice and the dept. of justice has raised issues regarding these types of bills in other sessions. A motion was made by Earl Black and seconded by Jeffrey Mitchell to support the proposal to require an exam for sales agents and with the 84 hours removed and replaced with hours to be determined by the Commission. Unanimous.

Members were provided copies and information on L.D. 159, L.D. 1509, and L.D. 1532.

Disclosure of Manufactured Housing – Karen Bivins 3/14/05 Memo: Discussed the issue of disclosure of the type of construction in i.e. modular home, stick built transactions. More information will be obtained from the Director of the Manufactured Housing Board.

June ARELLO Meeting – Update: Members were provided with a tentative agenda. All members have indicated attendance.

Finder Fee Form Letter re: Keith Collins from Pennsylvania: Director Leighton to forward a written response.

ARELLO Report – Mid-Year Meeting: Director Leighton reported on this meeting held in Monterey, California.

Arsenic Report to the Natural Resources Committee – Update: Members were provided with a copy of the report.

Maine Association of Realtors® Request for Commission Speaker – May 23, 2005: A motion was made by Earl Black and seconded by Jeffrey Mitchell to authorize Sharon Millett to attend for this purpose. Unanimous.

Next Meeting Scheduled for May 19, 2005.

The meeting was adjourned at 4:35 p.m.

This report respectfully submitted,

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Sharon Millett  
Chairperson

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Carol J. Leighton  
Director